
Local Government Committee

SSB 5138

Brief Description: Concerning notice and review processes for annexations, deannexations, incorporations, disincorporations, consolidations, and boundary line adjustments under Titles 35 and 35A RCW.

Sponsors: Senate Committee on Government Operations & Security (originally sponsored by Senators Roach, Liias and Keiser; by request of Office of Financial Management).

Brief Summary of Substitute Bill

- Requires initiators of city incorporation proceedings and boundary change proposals to submit notice of the proposed actions to the Office of Financial Management (OFM).
- Requires the OFM to review and approve incorporation and boundary change proposals, or to deny approval under specified circumstances.
- Establishes a general definition of “contiguous” for city incorporations and other boundary change proposals.
- Modifies provisions governing incorporations and city and town boundary changes, including: changing specific annexation requirements; establishing procedural requirements related to de-annexations and boundary line adjustments, and requiring the use of population estimates produced by the OFM.

Hearing Date: 3/17/15

Staff: Ethan Moreno (786-7386).

Background:

Municipal Boundaries - General Laws and Local Control.

Article XI, Section 10 of the Washington Constitution prohibits the Legislature from directly establishing cities and towns, but instead requires the Legislature to adopt general laws for the incorporation, organization, and classification of cities and towns. In accordance with this

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

constitutional directive, the Legislature has adopted numerous procedural and substantive requirements governing the establishment and modification of boundaries of cities, towns, and "code cities," the term used to describe cities that operate under an optional municipal code.

While municipal boundaries are established through the initial incorporation of cities and towns, municipal boundaries may be changed through several methods and processes, including:

- annexations;
- de-annexations;
- disincorporations;
- consolidations; and
- boundary line adjustments.

Office of Financial Management.

The Office of Financial Management (OFM) was established through legislation in 1969 as a division of the Office of the Governor. The OFM provides information, fiscal services, and policy support for the Governor and state agencies. State agencies and the Legislature also utilize information produced and provided by the OFM.

Primary responsibilities of the OFM include:

- preparing the executive budget proposal, and managing budget planning and fiscal administration for the executive branch;
- creating statewide technology policy and standards for state government through the Office of the Chief Information Officer;
- managing statewide human resource policy functions; and
- providing estimates of state and local population, monitoring changes in the state economy and labor force, and conducting research on a variety of issues affecting the state budget and public policy.

Office of Financial Management—Population Estimates, Annexations, and Related Allocations of State Funds.

According to the OFM, its Small Area Estimates Program (SAEP) produces population estimates that are meant to provide a consistent set of small area population and housing data for statewide applications. The SAEP estimates are generated for census areas and other areas of statewide significance.

When territory is annexed to a city or town, a related certificate of annexation (certificate) and associated legal descriptions must be provided to the OFM. The OFM must also provide a copy of the certificate to the Department of Transportation. Following a determination of population for the applicable area, a process for which the city or town is responsible, and final approval of the certificate, the OFM considers the applicable territory when determining the population of the city or town. These population determinations are then forwarded to state officials and departments responsible for making population-based allocations or payments to cities and towns.

Boundary Review Boards.

Boundary review boards (boards) are authorized in statute to guide and control the creation and growth of municipalities in metropolitan areas. While statute provides for the establishment of boards in counties with at least 210,000 residents, a board may be created and established in any

other county. Board members are appointed by the Governor and local government officials from within the applicable county.

Upon receiving a timely and sufficient request for review, and following an invocation of a board's jurisdiction, a board must review and, subject to requirements and limitations, approve, disapprove, or modify proposed actions, including actions pertaining to the creation, incorporation, or change in the boundary of any city, town, or special purpose district. In reaching decisions on proposed actions, boards must satisfy public hearing requirements and must attempt to satisfy objectives prescribed in statute, including the preservation of natural neighborhoods and communities, and the use of physical boundaries.

Summary of Bill:

Office of Financial Management—Receipt and Review of Proposed Actions, Criteria for Agency Denial of Proposal.

The initiator of a proposed action regarding: (1) annexation, (2) de-annexation, (3) incorporation, (4) disincorporation, (5) consolidation of cities, or (6) boundary line adjustment under general provisions governing cities and towns must file notice of intention (notice) with the Office of Financial Management (OFM) for its review. The notice must be filed:

- within three days of initial acceptance or approval of the proposed action by the appropriate entity; or
- immediately following the applicable legislative body's initial acceptance or approval of the action, except if the initiator is the legislative body of a government unit.

The notice must be submitted with:

- a legal description of the proposed annexation, de-annexation, incorporation, disincorporation, consolidation, or boundary line adjustment. The legal description must be approved by the OFM before subsequent notices regarding the proposed action are filed;
- a map showing the specific territory boundaries of the proposed action;
- a copy of the proposed action or resolution, if applicable;
- parcel numbers of affected properties, if applicable; and
- street addresses of affected properties, if applicable, but excluding the names of owners and residents.

Within 30 days of receiving the notice, the OFM must review and approve or deny the documents submitted under the notice. The OFM may only deny approval a proposed action if any of the following occur:

- The ordinance or resolution, with certain exceptions, includes any territory that is part of another city or that is already part of the city boundaries.
- The territory to be annexed, de-annexed, or incorporated, or subject to consolidation is, with certain exceptions, not contiguous, to existing city boundaries.
- The proposed action or resolution does not include or excludes the full right-of-way when roads are being used as part of the city boundary.
- The proposed action or resolution, with certain exceptions, includes any territory that is outside of an urban growth area in counties that are required or choose to plan under growth management planning requirements.

- The map of the territory to be annexed, de-annexed, incorporated, disincorporated, consolidated, or subject to boundary line adjustment is not an accurate representation of the legal description.

If the OFM denies approval of a proposed action, it must, within three days of the denial, provide written notice of the reason or reasons for denial to the affected government unit or units or, in the case of a city incorporation, the incorporation initiators.

The OFM must post the documents submitted with the received notices on its website and must provide notice to the Department of Transportation. The OFM must also produce an annexation, de-annexation, incorporation, disincorporation, city consolidation, and boundary line adjustment report 30 days before the commencement of each quarterly period, post the report on its website, and notify state entities according to specified requirements.

The requirements for the OFM to approve of initiated actions does not affect the authority of Boundary Review Boards (boards) to review and approve, disapprove, or modify actions subject to their review.

Definition of "Contiguous".

A general definition "contiguous" is established for incorporations and boundary line modifications. The term is defined to mean that territory proposed to be annexed, de-annexed, incorporated, or consolidated touches or is in physical contact with a city boundary, though the contact must be more than a single point. Territory connected to a city only by a public right-of-way, where the edge of the right-of-way does not constitute part of the city boundary, is not considered contiguous.

Application of New Requirements and Provisions to Incorporation Proceedings and Boundary Change Proposals.

Provisions requiring persons or entities initiating, or considering approval of, incorporations and other boundary change proposals to notify the OFM are established. The incorporations and boundary change proposals may not be approved by the legislative body of the applicable city or town until the OFM has reviewed and approved the proposed action. The approval of the OFM is required even in the event of incorporations or boundary change proposals that are approved by voters. The provisions establishing the OFM notification requirements, or the OFM notification, and review, and approval requirements, apply to provisions governing:

- the incorporation process of a city or town;
- the disincorporation process of a city or town;
- the consolidation process of a city or town;
- annexation processes and requirements for various annexation methods, including annexations conducted through the election method, the direct petition method, annexations of areas for municipal purposes, annexations of unincorporated islands of territory, annexations of areas through interlocal agreements, and annexations of territory used for an agricultural fair; and
- reductions of city and town areas.

Additional Requirements and Provisions Related to Incorporation Proceedings and Boundary Change Proposals.

Other policy changes related to incorporations and other boundary change proposals are established. Examples include the following:

- requires that population determinations for a proposal to incorporate a city or town be made by the OFM through its Small Area Estimate Program (SAEP);
- removes a requirement that a county or boundary review board determine the population of a proposed incorporation with boundaries defined by the county, and requires the population to instead be determined by the OFM through the SAEP;
- modifies annexation provisions for unincorporated islands of territory by allowing the method to be used by all cities and towns subject to growth management planning requirements rather than only cities and towns subject to those requirements as of June 30, 1994; and
- specifies that boundary line adjustments of cities and town, including code cities, are subject to review and approval by the OFM;

Office of Financial Management - Boundary Changes and Related Allocations of State Funds.

Provisions governing the OFM's role in receiving certificates of annexation (certificates) and legal descriptions related to annexations are modified by, in part, by extending the notice and certificate requirements for annexations, to de-annexation actions, boundary line adjustment actions, and consolidation actions.

Whenever: (1) any territory is annexed to, or de-annexed from, a city or town, (2) any territory is subject to boundary line adjustment, or (3) cities are consolidated, a copy of the complete ordinance containing a legal description and a map showing specifically the boundaries of the territory or consolidated area must be submitted to the OFM immediately after the city or town's adoption of the applicable ordinance. Within two days of receipt of the ordinance, the OFM must post a digital copy on the Internet or transmit digital copies to the departments of Transportation and Revenue. Cities and towns are relieved of their obligation to provide full ordinance copies and legal descriptions of the annexed territory to the OFM.

After final approval of the certificate, the OFM must forward the revised boundary information to state officials and departments responsible for making population-based allocations or payments to cities and towns.

Appropriation: None.

Fiscal Note: Requested on March 5, 2015.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.